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December 20, 2004

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Federal Communications Commission  
Office of Secretary

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45  
Notice of Ex Parte Communication

Dear Ms. Dortch:

This letter is submitted pursuant to Section 1.1206(b)(2) of the Commission's Rules to provide notice of a permitted oral *ex parte* communications in the above-referenced proceeding. On December 17, 2004, Robert De Broux, Kathleen Wallman and the undersigned, on behalf of TDS Telecommunications Corp. (TDS Telecom), met with Jessica Rosenworcel, Legal Advisor to Commissioner Copps.

The parties discussed the Rural Local Exchange Carriers' Application for Review of the Bureau's Order in the above-referenced proceeding designating NPCR, Inc. d/b/a Nextel Partners and Nextel Partners of Upstate New York, Inc. d/b/a/ Nextel Partners (collectively, Nextel Partners) as eligible telecommunications carriers (ETCs) in seven states.<sup>1</sup> We reviewed the arguments made in the AFR concerning the need for the Commission to halt temporarily the Bureau's consideration of pending petitions for ETC designation until the Commission issues an order resolving the ETC designation issues addressed in the pending Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board).<sup>2</sup>

<sup>1</sup> Application for Review of the Rural Local Exchange Carriers, CC Docket No. 96-45 (filed Sept. 24, 2004) (AFR) (seeking Commission review of Order, *Federal-State Joint Board on Universal Service, NPCR, Inc. d/b/a Nextel Partners Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Florida, Georgia, Pennsylvania, Tennessee, and Virginia, Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of New York*, CC Docket No. 96-45, DA 04-2667 (rel. Aug. 25, 2004, amended by Erratum rel. Sept. 13, 2004) (Nextel ETC Order)).

<sup>2</sup> Recommended Decision, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 04J-1 (rel. Feb. 27, 2004) (Recommended Decision). The Commission issued a Notice of Proposed Rulemaking seeking comment on the Recommended Decision in June 2004. Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 04-127 (rel. June 8, 2004)

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We also reiterated our belief that the grant of ETC designation to Nextel Partners was inconsistent with the public interest even under the interim *Virginia Cellular* standard. Specifically, we noted that Nextel Partners' network coverage is so deficient in many of the designated rural service areas that the Bureau erred in determining that Nextel Partners satisfied the statutory requirement to provide supported services throughout the designated areas. To illustrate this point, which was previously raised in this proceeding and alluded to in the AFR, we overlaid maps of TDS Telecom study areas in Alabama, Florida, Georgia, New York, Pennsylvania, and Virginia over Nextel coverage maps obtained through the Nextel Partners website.<sup>3</sup> The maps show that Nextel Partners' own representations to the public do not reflect any significant level of service in most of the TDS Telecom service areas in which Nextel Partners was designated as an ETC. Nor do the Nextel Partners construction plans submitted in this proceeding show any intention to build facilities to expand service into TDS Telecom service areas. Nextel Partners' vague commitment to consider various steps to provide service to requesting customers in areas not currently served by the Nextel network cannot paper over the significant gaps in network coverage in the TDS Telecom service areas. It is unlikely that many consumers will ever request service in areas that Nextel Partners' website indicates are wholly unserved by the Nextel network.

Please address any questions to the undersigned.

Sincerely,



Gerard J. Waldron  
*Counsel to TDS Telecom*

cc: Ms. Rosenworcel

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<sup>3</sup> The Nextel coverage maps have been submitted previously in this proceeding.